APPENDIX

Revenue Act of 1924, 43 Stat. 253:

SEC. 301. * * *

(b) The tax imposed by this section shall be credited with the amount of any estate, inheritance, legacy, or succession taxes actually paid to any State or Territory or the District of Columbia, in respect of any property included in the gross estate. The credit allowed by this subdivision shall not exceed 25 per centum of the tax imposed by this section.

* * * * *

SEC. 1011. Section 3220 of the Revised Statutes, as amended, is reenacted without change, as follows:

"SEC. 3220. The Commissioner of Internal Revenue, subject to regulations prescribed by the Secretary of the Treasury, is authorized to remit, refund, and pay back all taxes erroneously or illegally assessed or collected, all penalties collected without authority, and all taxes that appear to be unjustly assessed or excessive in amount, or in any manner wrongfully collected; * * *."

SEC. 1012. Section 3228 of the Revised Statutes, as amended, is amended to read as follows:

"SEC. 3228. (a) All claims for the refunding or crediting of any internal-revenue tax alleged to have been erroneously or illegally assessed or collected, * * * or of any sum alleged to have been excessive or in any manner wrongfully collected must, * * * be presented to the Commissioner

of Internal Revenue within four years next after the payment of such tax * * * or sum."

* * * * *

SEC. 1014. (a) Section 3226 of the Revised Statutes, as amended, is amended to read as follows:

"SEC. 3226. No suit or proceeding shall be maintained in any court for the recovery of any internal-revenue tax alleged to have been erroneously or illegally assessed or collected, * * * or of any sum alleged to have been excessive or in any manner wrongfully collected until a claim for refund or credit has been duly filed with the Commissioner of Internal Revenue, according to the provisions of law in that regard, and the regulations of the Secretary of the Treasury established in pursuance thereof; * * *. No such suit or proceeding shall be begun before the expiration of six months from the date of filing such claim unless the Commissioner renders a decision thereon within that time, nor after the expiration of five years from the date of the payment of such tax * * * or sum, unless such suit or proceeding is begun within two years after the disallowance of the part of such claim to which such suit or proceeding relates. * * *"

* * * * *

Subsequent amendments to Revised Statutes, Sections 3220, 3226, and 3228, contained in Revenue Act of 1926, Sections 1111, 1112, and 1113, and to Revised Statutes, Section 3228 in Revenue Act of 1928, Section 19 (c) are not relevant here.

Judicial Code:

SEC. 24. The district courts shall have original jurisdiction as follows:

* * * * *

Twentieth. Concurrent with the Court of Claims, of all claims not exceeding $10,000 founded upon the Constitution of the United States or any law of Congress, or upon any regulation of an executive department, or upon any contract, express or implied, with the Government of the United States, or for damages, liquidated or unliquidated, in cases not sounding in tort, in respect to which claims the party would be entitled to redress against the United States, either in a court of law, equity, or admiralty, if the United States were suable, * * *. No suit against the Government of the United States shall be allowed under this paragraph unless the same shall have been brought within six years after the right accrued for which the claim is made. * * * (U. S. C., Title 28, Sec. 41.)

Treasury Regulations 68, relating to the Revenue Act of 1924:

ART. 9. (a) *Credit for estate, inheritance, legacy, or succession taxes.*—Under the provisions of section 301 (b) the estate is entitled, under certain conditions, to a credit against the Federal estate tax for payments of estate, inheritance, legacy, or succession taxes actually made to any of the several States, Territories, or the District of Columbia.

This credit applies only to the estates of persons dying after the effective date of the Revenue Act of 1924, and is limited to 25 per centum of the Federal estate tax. No credit may be taken or allowed for any part of such taxes unless the property in respect to which such taxes were imposed is included in the gross estate of the decedent for Federal estate tax.

The Federal estate tax is due and payable one year after the date of decedent's death, and in making payment of the amount shown by the return to be due the executor may claim credit, subject to the approval of the Commissioner upon audit of the return, of an estimated amount of any such taxes for which the estate will ultimately be entitled to a credit, and pay the balance of the tax disclosed by the return. Where, however, such taxes have been paid prior to the date of payment of the Federal estate tax indicated by the return, the amount thereof actually paid, but not in excess of 25 per centum of the Federal estate tax, should be claimed. Where the executor, in filing the return and discharging the tax indicated thereby, takes credit for any such taxes which are not thereafter paid prior to the final audit of the return, or where the Commissioner determines that such taxes, or any portion thereof, are not an allowable credit within the meaning of the statute, then such credit or portion thereof taken by the executor at the time of paying the tax as is not allowed by the Commissioner should be paid promptly, together with interest thereon, if any has accrued. (See Art. 83.) The executor should exercise care to see that he does not claim a credit in excess of the correct amount.

Where credits are allowed they will be applied against any unpaid tax, and if there then remains an amount not so applied the executor should file a claim for the refund of the amount of the Federal estate tax by which the credit exceeds the unpaid tax, or if the entire Federal estate tax has been paid, a claim for refund should be filed for such portion thereof as results from the allowance of the credit.

Before the Commissioner allows credit for any estate, inheritance, legacy, or succession taxes, there must be submitted to him a complete list of the property in respect to which any such taxes were imposed, and the amount thereof paid, certified under the hand and official seal of the officer of the taxing State or Territory having custody of the records pertaining to such taxes. If such officer has no seal, his official position should be established by the submission of a certificate of the proper authority of the taxing State or Territory. The certificate of the officer having custody of the records referred to must set forth the name of the decedent, the date of his death, and show whether a refund of such taxes, or any part thereof, has been authorized, and whether any claim therefor is pending. If any refund has been made the date, amount thereof, and a description of the property or interest in respect to which such refund was made must be shown in such certificate. In addition to such certificate, the executor must submit his affidavit stating whether any litigation has been instituted, or appeal taken, or any such action is designed or contemplated by him, or, to his knowledge, by any beneficiary or other person, the final determination of which may affect the amount of such taxes. The certificate of the officer having custody of the records referred to, and the affidavit of the executor, should be filed with the return, but if that is not convenient or possible, then they should be transmitted direct to the Commissioner.

Where, subsequent to the allowance of a credit by the Commissioner, a refund is made of any such estate, inheritance, legacy, or succession taxes, the executor, or if the re-

fund is made after the executor's discharge, then any person or persons to whom the refund is made, is required to advise the Commissioner of the date of the refund and the amount thereof, furnish the Commissioner with a description of the property or interest in respect to which the refund was made, and pay the Federal estate tax, if any, due as a result of such refund, together with interest.

* * * * *

U. S. GOVERNMENT PRINTING OFFICE: 1941